

THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No. 8880 OF 2007

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Dated 26th October, 2007

Between:

K.Rajagopal Reddy

...Petitioner

And

The District Registrar, Registration and
Stamps, Kurnool, Kurnool District and another.

...Respondents.

ORAL ORDER:

In this writ petition, the petitioner has questioned the validity of the order dated 12.10.2006 passed in proceedings No.G1/584/2006 by the District Registrar, Registration and Stamps, Kurnool.

The petitioner executed a gift deed conveying an extent of 0.72 cents of land covered by Survey No. 907/B, situated at Kallur village of Kurnool District in favour of his sister, by name, Smt. J.Radha Rukmini. The said document was presented before the second respondent for registration by duly paying the stamp duty and registration charges by valuing the document at Rs.14,41,500/-, and, the same was registered vide document No. 12125/05 dated 5.11.2005. However, respondent No.1 issued notice on 30.11.2005 under Section 27 read with Section 64 of the Indian Stamp Act, 1899 stating that during the course of spot inspection, it was noticed that the plinth area of the property under Document No.12125 of 2005 was suppressed, thereby, committing an offence of under-valuation and, therefore, an opportunity is given to the petitioner to get the offence of under-valuation compounded and the loss of revenue is worked out to Rs.1,97,400/- and the petitioner is directed to remit the said amount within 15 days before the Sub-Registrar, Kurnool. To the said notice, the petitioner filed detailed explanation on 11.12.2005 denying the allegations and stating that the petitioner did not suppress the plinth area or the value of the document and in fact, he paid more stamp duty than payable on the basis of the value mentioned in the Basic Value Register. It was also stated that the said land is an agricultural land. When without considering the said explanation, second notice was issued the petitioner approached this court by filing Writ Petition No. 18285 of 2006, and, this court, by order dated 19.9.2006, disposed of the said writ petition directing

the respondents to consider the matter afresh by taking into consideration the representation made by the petitioner on 11.12.2005. Though the said order is referred to in the impugned order in the reference first cited, but the same demand is reiterated merely on the ground that the loss of revenue cannot be changed as the Market Value Guidelines were already approved by the Market Value Committee and the loss of revenue was arrived as the property relates to 46th Ward of Kurnool as per the Market Value Guidelines.

In this writ petition, it is the case of the petitioner that in spite of the directions of this court in Writ Petition No. 18285 of 2006, the impugned order is passed without considering the representation filed by him. It is also the case of the petitioner that the subject land is an agricultural land and as per the Basic Value Register, the stamp duty was paid and there is no basis for demanding an amount of Rs.1,97,000/- and there was no suppression as alleged.

In the counter affidavit filed on behalf of the respondents, the demand is defended on the ground that the property is falling in 46 Ward of the Kunool Municipality and the same is non-agricultural land and as per the Basic Value Register, the valuation is approved at the rate of Rs.4190/- per sq. yard.

At the outset, it is to be noted that the notice dated 30.11.2005 did not state that the stamp duty was not paid as per the value stated in the Basic Value Register. It is the case of the petitioner that the land still continued to be agricultural land and there are no orders passed by the competent authority for conversion of agricultural land for non-agricultural purposes. Even a reading of the impugned order shows that the several objections raised by the petitioner have not been considered, though there was a specific direction by this court in Writ Petition No.18285 of 2006 to take into consideration the representation of the petitioner. As much as the representation of the petitioner was not considered while passing

the impugned order, I set aside the order dated 12.10.2006 passed in proceedings No.G1/584/2006 and direct the District Registrar, Kurnool to consider the matter afresh in the light of the notice issued to the petitioner and also taking into account the representations filed by the petitioner on 11.12.2005 and 18.10.2006 and pass appropriate orders by affording an opportunity of being heard to the petitioner.

The writ petition is allowed to the extent indicated above. No costs.

26-10-2007 **R.SUBHASH REDDY, J.**
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